REMARKS/ARGUMENTS

Claims 1-13 are pending. Applicants have carefully considered the application in view of the Examiner's action and, in light of the following remarks, respectfully requests reconsideration and full allowance of all pending claims.

Applicants have noted their obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time that a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f), or (g) prior art under 35 U.S.C. 103(a). However, after careful consideration of this obligation, Applicants have concluded that there are no claims that were not commonly owned at the time a later invention was made and, therefore, that it is unnecessary to point out the inventor and invention date of any claim.

Claims 1-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,961,570 B2 to Kuo et al. (hereinafter "*Kuo*") in view U.S. Patent Publication No. 2004/0038681 A1 to Chun (hereinafter "*Chun*"). In response, Applicants respectfully traverse for the following reasons.

First, the present invention relates to a method of operating a communication device in a mobile communications network. The method comprises the RRC (radio resource control) layer of the device submitting an SDU (service data unit) to the RLC (radio link control) layer and starting a timer. If the process times out, the SDU is resubmitted to the RLC layer by the RRC layer. If this resubmission happens a predetermined number of times, then the RRC layer submits to the RLC layer an error message indicative of an unrecoverable error in said RLC layer for emission in response thereto. Notably, and as recited in independent claims 1, 4, 7, and 10, the SDU is resubmitted by the RRC layer to the RLC layer a predetermined number of times.

Second, and in clear contrast to Applicants' invention as recited in independent Claims 1, 4, 7, and 10, *Kuo* states at column 3, lines 34-43, that:

> When a Cell Update procedure is initiated, the UE 40 sends a CELL UPDATE message to the UTRAN 20u stating the reason for the Cell Update and starting a timer T302. Then, the UE 40 waits for a CELL UPDATE CONFIRM message from the UTRAN 20u. If the timer T302 expires before the response from the UTRAN 20u is received by the UE 40, the UE 40 retransmits the CELL UPDATE message. The maximum number of times of retransmission is determined by

N302, a value that is also stored in the IE "UE Timers and constants in connected mode".

Thus, the cell update message is transmitted by the UE and received by the UTRAN. Accordingly, a cell update message does not correspond to an SDU submitted by the RRC layer to the RLC layer. Accordingly, *Kuo* fails to teach or suggest this feature (*i.e.*, of an SDU submitted by the RRC layer to the RLC layer) of independent Claims 1, 4, 7, and 10. Furthermore, *Chun*, which has been cited for teaching timers T305 and T307 started at the RRC layer, fails to teach or suggest resubmitting an SDU within the layers of a UE as is claimed.

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination now recited in independent Claims 1, 4, 7, and 10 that the SDU is resubmitted by the RRC layer to the RLC layer a predetermined number of times. It is therefore respectfully submitted that Claims 1, 4, 7, and 10 clearly and precisely distinguish over the cited combinations of references in a patentable sense, and are therefore allowable over those references and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claims 1, 4, 7, and 10 under 35 U.S.C. § 103(a) as being unpatentable over *Kuo* in view of *Chun* be withdrawn.

Claims 2, 3, 5, 6, 8, 9, and 11-13 depend from and further limit independent Claims 1, 4, 7, and 10 in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejections of dependent Claims 2, 3, 5, 6, 8, 9, and 11-13 be withdrawn, as well.

Claims 1-13 also stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-14 of U.S. Patent Application Ser. No. 10/774,306, and over Claims 1-13 of U.S. Patent Application Ser. No. 10/774,307. In response, Applicants have attached herewith two Terminal Disclaimers in compliance with 37 C.F.R. § 1.321(c), along with authorization to charge the fees required under 37 CFR § 1.20(d) to Deposit Account No. 50-2032 of Scheef & Stone, L.L.P., which Terminal Disclaimers overcome the rejections set forth under the doctrine of obviousness-type double patenting, thereby placing Claims 1-13 in condition for allowance.

Applicants do not believe any fees are due in connection with the filing of this paper, other than fees associated with the accompanying Terminal Disclaimers; however, in the event that any other fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper, to Deposit Account No. 50-2032 of Scheef & Stone, L.L.P.

Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, full allowance of Claims 1-13 so that the application may be passed to issue.

Should the Examiner have any questions or desire clarification of any sort, or deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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